

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MELISSA TYLER, on behalf of herself
and all others similarly situated,

Plaintiff,

-against-

MICHAELS STORES, INC.,

Defendant

Hon. William G. Young

Civil Action No. 1:11-cv-10920-WGY

**MOTION FOR ORDER CERTIFYING LEGAL QUESTIONS
TO THE MASSACHUSETTS SUPREME JUDICIAL COURT**

Pursuant to Rule 1:03 of the Rules of the Supreme Judicial Court, Plaintiff Melissa Tyler, on behalf of herself and all others similarly situated, hereby moves this Court to enter an Order certifying the following questions to the Massachusetts Supreme Judicial Court:

1. Does a retailer's per se violation of Massachusetts General Laws, chapter 93, section 105(a) constitute an injury for which an aggrieved consumer can seek redress under Massachusetts General Laws, chapter 93A, section 9?
2. Does Massachusetts General Laws, chapter 93, section 105(a) create an actionable privacy right in the absence fraud?

These questions are proper for certification pursuant to Supreme Judicial Court Rule 1:03, the Uniform Certification of Questions of Law Rule, because they are determinative of the cause pending in this Court and there is no controlling precedent in the decisions of the Supreme Judicial Court. See Boston Gas Co. v. Century Indem. Co., 529 F.3d 8, 15 (1st Cir. 2008). A proposed Memorandum and Order which sets forth more fully the reasons for certification is attached.

Dated: White Plains, New York
January 13, 2012

Respectfully submitted,

**MEISELMAN, DENLEA, PACKMAN,
CARTON & EBERZ P.C.**

By: /s D. Greg Blankinship
D. Greg Blankinship (BBO 655430)
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Attorneys for Plaintiff

LOCAL RULE 7.1(a)(2) CERTIFICATE

I hereby certify that counsel for Plaintiff has conferred with opposing counsel in a good faith attempt to resolve or narrow the issues concerning this motion before its filing.

/s/ D. Greg Blankinship

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent via U.S. first class mail to those indicated as non-registered participants on January 13, 2012.

/s/ D. Greg Blankinship